



**BILLING CODE 3510-22-P**

**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

**50 CFR Part 622**

**[Docket No. 160426363-7275-02]**

**RIN 0648-XG770**

**Coastal Migratory Pelagic Resources of the Gulf of Mexico and Atlantic Region; 2018-2019 Commercial Hook-and-Line Closure for King Mackerel in the Gulf of Mexico Southern Zone**

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Temporary rule; closure.

**SUMMARY:** NMFS implements an accountability measure (AM) to close the hook-and-line component of the commercial sector for king mackerel in the Gulf of Mexico (Gulf) southern zone. This closure is necessary to protect the Gulf king mackerel resource.

**DATES:** This temporary rule is effective from 12:01 a.m., local time, on February 22, 2019, through June 30, 2019.

**FOR FURTHER INFORMATION CONTACT:** Kelli O'Donnell, NMFS Southeast Regional Office, telephone: 727-824-5305, email:

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**SUPPLEMENTARY INFORMATION:** The fishery for coastal migratory pelagic fish includes king mackerel, Spanish mackerel, and cobia, and is managed under the Fishery Management Plan for the Coastal Migratory Pelagic Resources of the Gulf of Mexico and Atlantic Region (FMP). The FMP was prepared by the Gulf of Mexico and South Atlantic Fishery Management Councils and is implemented by NMFS under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) by regulations at 50 CFR part 622. All weights for Gulf migratory group king mackerel (Gulf king mackerel) below apply as either round or gutted weight.

The king mackerel fishery in the Gulf is divided into western, northern, and southern zones, which have separate commercial quotas. The southern zone for Gulf king mackerel encompasses an area of the exclusive economic zone (EEZ) south of a line extending due west from the boundary of Lee and Collier Counties on the Florida west coast, and south of a line extending due east from the boundary of Monroe and Miami-Dade Counties on the Florida east coast, which includes the EEZ off Collier and Monroe Counties in south

Florida (50 CFR 622.369(a)(1)(iii)).

The commercial quota for the hook-and-line component of the commercial sector in the southern zone is 585,900 lb (265,760 kg) for the current fishing year, July 1, 2018, through June 30, 2019 (50 CFR 622.384(b)(1)(iii)(A)).

Regulations at 50 CFR 622.8(b) and 622.388(a)(1) require NMFS to close any component of the king mackerel commercial sector when its quota has been reached, or is projected to be reached, by filing a notification with the Office of the Federal Register. NMFS has determined the commercial quota for the hook-and-line component of the commercial sector for Gulf king mackerel in the southern zone will be reached by February 22, 2019. Accordingly, the hook-and-line component of the commercial sector for Gulf king mackerel in the southern zone is closed effective at 12:01 a.m., local time, on February 22, 2019, through the end of the fishing year on June 30, 2019.

NMFS has also determined that the Gulf king mackerel commercial quota for vessels using run-around gillnet gear in the southern zone was reached on February 8, 2019, and therefore on that date, NMFS closed the southern zone to commercial king mackerel fishing using run-around gillnet

gear (84 FR 3723, February 13, 2019). Accordingly, all commercial fishing for Gulf king mackerel in the southern zone is closed effective at 12:01 a.m., local time, on February 22, 2019. The commercial hook-and-line component for Gulf king mackerel in the southern zone will reopen on July 1, 2019. The commercial run-around gillnet component will reopen at 6 a.m., eastern time, on January 21, 2020.

A person aboard a vessel that has a valid Federal commercial permit for king mackerel may continue to retain king mackerel under the bag and possession limits set forth in 50 CFR 622.382(a)(1)(ii) and (a)(2), as long as the recreational sector for Gulf king mackerel is open (50 CFR 622.384(e)(1)).

During the commercial closure, king mackerel caught with hook-and-line gear from the closed zone, including those harvested under the bag and possession limits, may not be purchased or sold. This prohibition does not apply to king mackerel caught with hook-and-line gear from the closed zone that were harvested, landed ashore, and sold prior to the closure and were held in cold storage by a dealer or processor (50 CFR 622.384(e)(2)).

#### **Classification**

The Regional Administrator for the NMFS Southeast Region has determined this temporary rule is necessary for the conservation and management of Gulf king mackerel and is consistent with the Magnuson-Stevens Act and other applicable laws.

This action is taken under 50 CFR 622.8(b) and 622.388(a)(1), and is exempt from review under Executive Order 12866.

These measures are exempt from the procedures of the Regulatory Flexibility Act because the temporary rule is issued without opportunity for prior notice and comment.

This action responds to the best scientific information available. The Assistant Administrator for NOAA Fisheries (AA) finds good cause to waive the requirements to provide prior notice and opportunity for public comment on this temporary rule pursuant to the authority set forth in 5 U.S.C. 553(b)(B), as such procedures are unnecessary and contrary to the public interest. Such procedures are unnecessary because the rule implementing the commercial quota and the associated AM has already been subject to notice and public comment, and all that remains is to notify the public of the closure. Additionally, allowing

prior notice and opportunity for public comment is contrary to the public interest because of the need to implement immediately this action to protect the king mackerel stock, because the capacity of the fishing fleet allows for rapid harvest of the commercial quota. Prior notice and opportunity for public comment would require time and could potentially result in a harvest well in excess of the established commercial quota.

For the aforementioned reasons, the AA also finds good cause to waive the 30-day delay in effectiveness of the action under 5 U.S.C. 553(d) (3).

**Authority:** 16 U.S.C. 1801 *et seq.*

Dated: February 20, 2019.

Alan D. Risenhoover,  
Director, Office of Sustainable Fisheries,  
National Marine Fisheries Service.

[FR Doc. 2019-03190 Filed: 2/20/2019 4:15 pm; Publication Date: 2/25/2019]